

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

JOE ANDREW SALAZAR,)	
)	
Plaintiff,)	Civil Action No.
)	2:16-cv-01096-JRG-RSP
v.)	
)	
HTC CORPORATION,)	JURY TRIAL DEMANDED
)	
Defendant.)	
_____)	

DECLARATION OF JERRY R. SELINGER IN SUPPORT OF
HTC CORPORATION'S MOTION FOR SUMMARY JUDGMENT
OF NONINFRINGEMENT OF THE ASSERTED CLAIMS
OF THE '467 PATENT

1. I am over twenty-one years of age, have personal knowledge of the following facts or access to information and/or records allowing me to confirm these facts.
2. I am a partner the law firm of Patterson + Sheridan, LLP and represent Defendant HTC Corporation ("HTC") in this case.
3. I submit this declaration in support of Defendant HTC Corporation's Motion for Summary Judgment of Noninfringement of the Asserted Claims of the '467 Patent.
4. Attached hereto as Exhibit A are true and correct copies of pages 12, 14-15, 19, 36, 45-48 from the deposition of Hsui Fen Lai and Deposition Exhibit 2 therein taken by plaintiff on December 1, 2017 of HTC Corporation pursuant to Fed. R. Civ. P. 30(b)(6).
5. Attached hereto as Exhibit B are true and correct copies of pages 18-19 from the deposition of Chia Chu Ho taken by plaintiff on December 1, 2017 of HTC Corporation pursuant to Fed. R. Civ. P. 30(b)(6).

6. Attached hereto as Exhibit C are true and correct copies of pages 26 and 96 from the deposition of Joe Andrew Salazar taken in this case by HTC Corporation on December 20, 2017.

7. Attached hereto as Exhibit D is a true and correct copy of the responses to Interrogatory Nos. 10 and 11 of Salazar's First Amended Responses to HTC Corporation's First Set of Interrogatories.

8. Attached hereto as Exhibit E are true and correct copies of pages 1, 7-8, 11-14, and 17 from the cover report on infringement submitted by Roy Griffin III in this case on behalf of plaintiff (the "Griffin cover report").

9. Attached hereto as Exhibit F are true and correct copies of pages 1-15, 28-29, 73, 75-80 from Exhibit C to the Griffin cover report.

10. Attached hereto as Exhibit G are true and correct copies of page 17 from the deposition of Tung Shan Wei taken by plaintiff on December 1, 2017 of HTC Corporation pursuant to Fed. R. Civ. P. 30(b)(6).

11. Attached hereto as Exhibit H are true and correct copies of pages 11-12 and 14-17 from the deposition of Sivasubramanian Muthukumarasamy taken in this case taken by plaintiff on December 1, 2017 of third-party Peel Technologies, Inc. pursuant to Fed. R. Civ. P. 30(b)(6).

12. Attached hereto as Exhibit I is a true and correct copy of a webpage (<http://radio-electronics.com/info/wireless/wi-fi/ieee-802-11g.php>) cited by Mr. Griffin in Exhibit C to his Expert Report.

13. Attached hereto as Exhibit J is a true and correct copy of document HTC011331-HTC011358, a specification for the MAXQ614 microprocessor, describing "automatic IR carrier frequency generation and modulation.

14. Attached hereto as Exhibit K is a true and correct copy of pages 59-62, 157-160, and 174-175 from the deposition of Roy Griffin III taken by HTC Corporation on January 23, 2017.

15. Attached hereto as Exhibit L is a true and correct copy of a webpage (<https://en.wikipedia.org/wiki/Near-field-communication>) cited by Mr. Griffin in Exhibit C to his Expert Report.

16. Attached hereto as Exhibit M is a true and correct copy of the Master Purchase Agreement for Products and Related Services Between Sprint/United Management Company and HTC Corporation, bates labeled HTC038162-278.

17. Attached hereto as Exhibit N is a true and correct copy of Amendment No. 6 to the Master Purchase Agreement for Products and Related Services Between Sprint/United Management Company and HTC Corporation, bates labeled HTC038279-280.

18. Attached hereto as Exhibit O is a true and correct copy of pages 19-20, 26-28, 35, 44-47, 49-50, 77-78 from the deposition of Roy Griffin III taken by HTC Corporation on February 9, 2018.

19. Attached hereto as Exhibit P is a true and correct copy of a webpage (<https://en.wikipedia.org/wiki/Bluetooth>) cited by Mr. Griffin in Exhibit C to his Expert Report.

20. After a review of the Griffin cover report and Exhibit C thereto, including performing a word search, I determined there is not a doctrine of equivalents analysis purporting to show that any portion of accused structure meets the “function-way-result” test or that any differences were only “insubstantially different.”

21. After a review of the Griffin cover report and Exhibit C thereto, including performing a word search, I determined there is not an infringement analysis involving the Peel Smart Remote application.

22. Roy Griffin did not review the source code of the One M8 Sense TV application at the offices of Patterson & Sheridan in Dallas, the location where source code was made available for review by Salazar's expert pursuant to the Protective Order. HTC Corporation did not copy and provide any pages of the source code of the Sense TV application for Windows to Salazar.

23. After a review of the Griffin Report and Exhibit C thereto, including performing a word search, I determined there is not an opinion specifically referring to the source code of the Sense TV application for Windows.

24. After a review of the Griffin Report and Exhibit C thereto, including performing a word search, I determined there is no evidence of underlying acts of direct infringement by any third party.

25. After a review of the Griffin Report and Exhibit C thereto, including performing a word search, I determined there is not a discussion or opinion that any of the Accused Instrumentalities has no substantial non-infringing uses.

26. On February 9, 2018, counsel for Salazar stated that Salazar stipulated to withdraw its infringement claims for claim 10 and claims 14, 17, 23, 26, 27, 31, and 32 that depend therefrom. A true and correct copy of this correspondence is attached as Exhibit Q.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 12, 2018

/s/Jerry R. Selinger
Jerry R. Selinger